

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

NEXTGEAR CAPITAL, INC.,

Plaintiff,

v.

CNG AUTO GROUP, INC. d/b/a TOP
WHEELS; ELONTO R. HERNANDEZ COLON;
and JULISSA M. FUENTES RIVERA,

Defendants.

CIVIL NO. 15-1824 (JAG)

Breach of Contract,
Collection of Monies,
Repossession of Personal Property

**[PROPOSED] WRIT FOR EXECUTION OF DEFAULT JUDGMENT
AND GARNISHMENT OR ATTACHMENT OF ASSETS**

THE UNITED STATES OF AMERICA)
THE PRESIDENT OF THE UNITED STATES)
THE COMMONWEALTH OF PUERTO RICO)

TO WHOM IT MAY CONCERN:

WHEREAS, it appears from the records of this Court that on _____, 2017, the following Order for Execution of Default Judgment to secure satisfaction of the referenced judgment was entered:

ORDER FOR EXECUTION OF DEFAULT JUDGMENT

Upon the consideration of Plaintiff's, NextGear Capital, Inc. ("NextGear" or "Plaintiff"), Motion for Execution of Judgment, and it appearing that Defendants, CNG Auto Group, Inc. d/b/a Top Wheels; Elonto R. Hernández Colón; and Julissa M. Fuentes Rivera, who are at *default*, have not, and will not, satisfy any part of the Judgment entered against them on January 25, 2017 by this Court (Docket No. 65):

IT IS HEREBY ORDERED that Yma González Marrero, a disinterested person in the case at caption and who can be reached at Camino del Mar, Plaza Marina, CH-14 Toa Baja, Puerto Rico; P.O. Box 51405, Toa Baja, Puerto Rico 00950-1405; ymagonzalez@gmail.com; (787) 594-3282, shall serve as the Special Master (depository and custodian) of any property of CNG Auto Group, Inc. d/b/a Top Wheels; Elonto R. Hernández Colón; and Julissa M. Fuentes Rivera that may be attached.

IT IS FURTHER ORDERED that a Writ for Execution of Default Judgment and Garnishment or Attachment of Assets be issued by the Clerk of this Court instructing Yma González Marrero, as Special Master, to make effective the Default Judgment awarded to NextGear through the sale at public auction of the below listed repossessed vehicles in the manner provided by

law, the proceeds of which will be applied to the \$556,889.87 (plus interest accruing daily at rate of 0.82%, attorneys' fees, and costs) that Defendants owe NextGear:

- a. 2013 Blue Hyundai Accent, VIN: KMHCT4AE6DU388867;
- b. 2013 Blue Nissan Versa, VIN: 3N1CN7AP2DL822250;
- c. 2013 Gray Nissan Versa, VIN: N1CN7AP5DL822212;
- d. 2013 White Nissan Versa, VIN: 3N1CN7AP0DL832081;
- e. 2013 Gray Nissan Versa, VIN: 3N1CN7AP1DL840027;
- f. 2013 Silver Nissan Versa, VIN: 3N1CN7AP1DL832140;
- g. 2013 White Ford Fiesta, VIN: 3FADP4BJ0DM161404;
- h. 2013 Red Ford Fiesta, VIN: 3FADP4BJ8DM161411;
- i. 2013 Gray Kia Forte, VIN: KNAFT4A27D5716621;
- j. 2013 Brown Kia Forte, VIN: KNAFT4A23D5716633;
- k. 2013 Blue Kia Forte, VIN: KNAFT4A24D5716642;
- l. 2010 Blue Mini Cooper, VIN: WMWMR3C5XATU97622;
- m. 2008 Black Mercedes C Class, VIN: WDDGF54X88F050483;
- n. 2013 Red Nissan Frontier, VIN: 1N6BD0CT4DN731930;
- o. 2011 White Ford Escape, VIN: 1FMCU0C73BKB38063;
- p. 2012 Silver Toyota Yaris, VIN: JTDDBT4K30C1419656;
- q. 2013 Blue Hyundai Accent, VIN: KMHCT4AE2DU545696;
- r. 2012 Gray Ford Fiesta, VIN: 3FADP4BJXCM123287;
- s. 2014 Gray Toyota Tacoma, VIN: 5TFJU4GN1EX051359;
- t. 2012 Blue Mini Cooper, VIN: WMWZF3C52CT488852.

Consequently, the Special Master shall be instructed to proceed to Manheim Caribbean Subastas the Autos (Luchetti Ind. Subdivision, 305 State Rd #5, Lot A, Bayamón, PR 00961), where the impounded vehicles have been stored since the replevin was carried out in August 2015, and arrange for the sale at public auction of the above listed vehicles in the manner provided by law.

IT IS FURTHER ORDERED, in the event that the proceeds from the public auction prove insufficient to cover the totality of the debt owed to NextGear, that Yma González Marrero, as Special Master, make effective the Default Judgment awarded to NextGear through the garnishment or attachment of:

1. Cash on hand at CNG Auto Group, Inc. d/b/a Top Wheels' facilities located at Bo. Buena Vista, Carr. 167 KM 15.3, Bayamón, PR 00956;
2. All debts and accounts receivable belonging to Defendants;
3. Cash and securities in Defendants' accounts in the following institutions:
 - a. Banco Popular de Puerto Rico

- b. Citibank, N.A.
 - c. Doral Bank
 - d. First Bank
 - e. Banco Santander de PR
 - f. Scotiabank
 - g. Oriental Bank
 - h. Banesco Banco Internacional PR
 - i. UBS
 - j. Popular Securities
 - k. Santander Securities
 - l. Merrill Lynch
 - m. Oriental Securities
 - n. Charles Schwab & Co., Inc.
4. Office equipment located at CNG Auto Group, Inc. d/b/a Top Wheels' facilities located at Bo. Buena Vista, Carr. 167 KM 15.3, Bayamón, PR 00956; and
5. Machinery, fixtures, equipment, and supplies used in the business of CNG Auto Group, Inc. d/b/a Top Wheels located at Bo. Buena Vista, Carr. 167 KM 15.3, Bayamón, PR 00956 or at any other facility occupied by CNG Auto Group, Inc. d/b/a Top Wheels.

Consequently, should it become apparent that the proceeds of the public auction will not cover Defendants' debt in full (including interest, attorneys' fees, and costs), the Special Master shall also be instructed to make effective the Default Judgment awarded to NextGear, as to the remainder of the debt, by (1) proceeding to CNG Auto Group, Inc. d/b/a Top Wheels' facilities at Bo. Buena Vista, Carr. 167 KM 15.3, Bayamón, PR 00956 or any other facility occupied by CNG Auto Group, Inc. d/b/a Top Wheels and taking custody of the aforementioned cash on hand and in banks, office equipment, machinery, fixtures, and supplies belonging to Defendants; (2) notifying the present Order to Defendants' debtors and to instruct said parties to refrain, upon penalty of contempt from making any other payments to Defendants by concept of monies owed from any of the attached debts, accounts receivable or bank/brokerage accounts; and (3) collecting any amounts belonging to Defendants presently deposited in any of the aforementioned bank or brokerage accounts, as necessary. Any amounts owed to Defendants by any of the aforementioned under any of the attached debts, accounts receivable or bank/brokerage accounts shall henceforth be remitted to this Court through check made out in the name of "Clerk, United States District Court, Civil No. 15-1824 (JAG), Federal Building, Carlos Chardón Avenue, Office 150, San Juan, PR 00918," where it shall be claimed by NextGear in due course.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this ____ day of _____, 2017.

s/Jay A. García-Gregory
JAY A. GARCIA-GREGORY
U.S. DISTRICT JUDGE

NOW, THEREFORE, YOU ARE HEREBY ORDERED to execute this Writ issued pursuant to the above order, by (1) selling the referenced vehicles at public auction and, if necessary, (2) attaching and freezing the Defendants' aforementioned assets - including, but not limited to, cash, securities, certificates of deposit, and any other negotiable instruments in any and all accounts held with the banks and brokerage firms listed above.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this ____ day of _____, 2017.

FRANCES RIOS DE MORAN, ESQ.
CLERK OF THE COURT

By: _____
Deputy Clerk